•• REMARKS/ARGUMENTS ••

The Official Action of May 19, 2004 has been thoroughly studied. Accordingly, the changes presented herein for the application, considered together with the following remarks, are believed to be sufficient to place the application into condition for allowance.

By the present amendment, independent claim 1 has been changed to recite that both the distal end portion and the opposite side edges of the supplementary absorbent batt assembly are spaced apart upwardly from the body facing surface of the primary absorbent batt assembly under tension of the barrier cuffs.

Support for this change to the claims can be found on in the full paragraph on page 9 of applicants' specification whereat is it taught that the batt assembly 6A is joined at intersections of both the distal end portions 6d and the transversely opposite side edges 6e thereof to the distal edge portions 7b of the barrier cuffs 7.

This structure which is depicted in Fig. 3 allows the entire supplementary batt assembly, including the opposite side edges thereof, to be spaced apart upwardly of the primary batt assembly.

Dependent claim 6 has been changed to correct the minor error noted by the Examiner on page 2 of the Official Action.

Entry of the changes to the claims is respectfully requested.

Claims 1-11 are pending in this application.

PAGE 9/13 * RCVD AT 8/19/2004 11:31:50 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/2 * DNIS:8729306 * CSID:734 995 1777 * DURATION (mm-ss):03-10

Claims 1-8 and 11 stand rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 6,699,228 to Chmielewski et al.

Claims 9 and 10 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Chmielewski et al. in view of Japanese reference No. JP 1996-19565 to Onishi et al.

For the reasons set forth below it is submitted that all of the pending claims are allowable over the prior art relied upon by the Examiner and therefore, the outstanding rejections of the claims should properly be withdrawn.

Favorable reconsideration by the Examiner is earnestly solicited.

The Examiner has relied upon Chmielewski et al. as disclosing a diaper that:

> ...as shown in figure 1, comprising a primary absorbent batt assembly 34, a pair of barrier cuffs 501, and a supplementary absorbent batt assembly 702. The primary absorbent batt assembly 34 has a body facing surface sheet 30, a garment facing surface sheet 32, a front waist region 26. The barrier cuffs 501 have a proximal edge portion 304 and a distal edge portion 503, and extend along transversely opposite sides of the primary absorbent batt assembly 34 so as to rise up from the body facing surface, as shown in figure 2. The supplementary absorbent batt assembly 702 has a body facing surface704 and an opposite surface 706, as shown in figure 2. The supplemental absorbent batt assembly 702 also has a proximal end portion 724 and a distal end portion 728, as shown in figure 1, the proximal end portion laying the front waist region 22. The distal end portion 728 is spaced apart upwardly from the primary absorbent batt assembly to define a pocket opening 80 when under tension from the barrier cuffs 501, as shown in figure 3.

In relying upon Chmielewski et al. the Examiner has overlooked the previous limitation in applicants' independent claim 1 that requires that the distal end portion of the of the supplementary absorbent batt assembly is "supported along transversely opposite side edges...by portions of said distal edge portions of said barrier cuffs."

PAGE 10/13 * RCVD AT 8/19/2004 11:31:50 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/2 * DNIS:8729306 * CSID:734 995 1777 * DURATION (mm-ss):03-10

In Chmielewski et al. the upper and lower absorbent structures are provided with separate leg gathers (cuffs) as shown in Fig. 2. This provision of separate leg gathers (cuffs) results in the upper absorbent structure being independent of the leg gather (cuff) 501 that is attached to the lower topsheet 301 of the lower absorbent structure at edge 305 as shown in Fig. 2.

As can clearly be seen in Fig. 2, the upper absorbent structure is not in direct contact with the leg gather (cuff) 501 nor supported in any why at the side edges thereof by leg gather (cuff) 708.

In order to further distinguish over Chmielewski et al. independent claim 1 has been amended to recite that both the distal end portion and the opposite side edges of the supplementary absorbent batt assembly are spaced apart upwardly from the body facing surface of the primary absorbent batt assembly under tension of the barrier cuffs.

In Chmielewski et al. the side edges of the upper absorbent structure are attached to the side edges of the lower absorbent structure at lines 726 as shown in Fig. 2.

This attachment and resulting structure preclude the sides of upper absorbent structure of Chmielewski et al. from being spaced apart upwardly from the sides of the lower absorbent structure.

The Examiner is asked to review and compare Fig. 2 of Chmielewski et al. and applicants' Fig. 3.

Based upon the structural and resulting functional differences, it is submitted that Chmielewski et al. does not anticipate applicants' claimed invention.

The Examiner has relied upon Onishi et al. as teaching a second supplementary absorbent core.

Onishi et al. do not address or overcome the differences between Chmielewski et al.

Accordingly the combination of Chmielewski et al and Onishi et al. does not render applicants' claimed invention obvious.

Based upon the above distinctions between the prior art relied upon by the Examiner and the present invention, and the overall teachings of prior art, properly considered as a whole, it is respectfully submitted that the Examiner cannot rely upon the prior art as required under 35 U.S.C. §102 as anticipating applicants' claimed invention.

Moreover, the Examiner cannot properly rely upon the prior art under 35 U.S.C. §103 to establish a *prima facie* case of obviousness of applicants' claimed invention.

It is, therefore, submitted that any reliance upon prior art would be improper inasmuch as the prior art does not remotely anticipate, teach, suggest or render obvious the present invention.

It is submitted that the claims, as now amended, and the discussion contained herein clearly show that the claimed invention is novel and neither anticipated nor obvious over the teachings of the prior art and the outstanding rejections of the claims should hence be withdrawn.

Therefore, reconsideration and withdrawal of the outstanding rejection of the claims and an early allowance of the claims is believed to be in order.

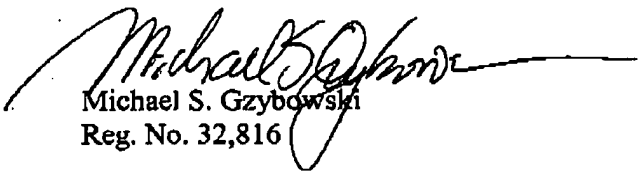
It is believed that the above represents a complete response to the Official Action and reconsideration is requested.

The prior art cited, but not relied upon, on page 5 of the Official Action has been considered, but is not believed to be particularly relevant to applicants' invention.

If upon consideration of the above, the Examiner should feel that there remain outstanding issues in the present application that could be resolved; the Examiner is invited to contact applicants' patent counsel at the telephone number given below to discuss such issues.

To the extent necessary, a petition for an extension of time under 37 CFR §1.136 is hereby made. Please charge the fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 12-2136 and please credit any excess fees to such deposit account.

Respectfully submitted,



Michael S. Gzybowski
Reg. No. 32,816

BUTZEL LONG
350 South Main Street
Suite 300
Ann Arbor, Michigan 48104
(734) 995-3110

116145.1

PAGE 13/13 * RCVD AT 8/19/2004 11:31:50 AM [Eastern Daylight Time] * SVR:USPTO-EFXRF-1/2 * DNIS:8729306 * CSID:734 995 1777 * DURATION (mm-ss):03-10